IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2025 OF 2005

M/s. Champalal Harakchand ... Petitioner

V/s.

The State of Maharashtra & Ors. ... Respondents

Mr. Rajesh C. Shah with Mr. P.R. Thatte for petitioner.
Mr. M.D. Naik, AGP for respondent Nos. 1 to 3.

CORAM : F.I. REBELLO &
ANOOP V. MOHTA,JJ.
DATED : 17th October, 2006

P.C.

. Rule. Heard forthwith.

2. It is case of the petitioner that he had entered into an agreement to purchase the property which is the subject matter of award. A consent decree was obtained on 04.04.1975. That decree has been registered on 12.10.1979. The award was made on 16.09.1986. The petitioner had no notice of award. It is, however, pointed out that the predecessor of the petitioner had been noticed after the award was passed. Notice was also given by respondents under Section 12. That was returned on the ground that the notices were not available. Considering the judgment of the Apex Court in **Dr. D.H. Grant V/s. The State of Bihar, AIR 1966 Supreme Court 237**, a party claiming right to compensation in the property acquired can

apply to Land Acquisition Officer for a reference under Section 30 of the Land Acquisition Act, insofar as appointment in compensation. Petitioner claims the entire compensation on the ground that petitioner is the owner of the property. It is, no doubt, true that there is delay on the part of the petitioner. The fact, however, remains that possession of the property has not been taken by the Collector by exercising his powers under provisions of Land Acquisition Act. In these circumstances, it is not possible to accept the contention of the petitioner that he has no notice of award. In the light of that present petition can be disposed of by giving the following directions.

i. The petitioner if not already filed to file application alongwith documents showing interest in the property to respondent No. 3. Respondent No. 3 to consider those documents and if he arrives at a conclusion that petitioner has interest in the property, then refer the matter under Section 30 of the Land Acquisition Act, to the competent reference Court.

ii. The petitioner to make application along with necessary documents within a period of four weeks from

today, if not already submitted.

iii. Respondent No. 3 to take decision within six weeks thereafter and communicate the same to the petitioner.

3. Rule made absolute. No order as to costs.

[F.I. REBELLO, J.]

[ANOOP V. MOHTA, J.]